

DECISIONS PER CURIAM, ETC., FROM OCTOBER
3, 1938, THROUGH JANUARY 16, 1939.*

No. 112. *CARTER v. TEXAS*. Appeal from the Court of Criminal Appeals of Texas. Decided October 10, 1938. *Per Curiam*: The appeal herein is dismissed (1) for the want of a substantial federal question, *Whitney v. California*, 274 U. S. 357, 368; (2) for the reason that the appellant has no standing to raise the question as to the validity of the statute under the commerce clause, *United States v. Kapp*, 302 U. S. 214, 217-218; *Kay v. United States*, 303 U. S. 1, 6-7. *Messrs. Earle B. Mayfield, Dan Moody, J. S. Grisham, and R. N. Grisham* for appellant. No appearance for appellee. Reported below: 135 Tex. Crim. Rep. —; 116 S. W. 2d 371.

No. 150. *HAHN v. OHIO*. Appeal from the Supreme Court of Ohio. Decided October 10, 1938. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted and the appeal is dismissed for the want of a substantial federal question. *Moore v. United States*, 150 U. S. 57; *Williamson v. United States*, 207 U. S. 425, 450, 451; *Heike v. United States*, 227 U. S. 131, 145; *Adams v. New York*, 192 U. S. 585, 599. *Messrs. Hiram C. Bolsinger and Joseph H. Hoodin* for appellant. *Messrs. Dudley Miller Outcalt, Carson Hoy, and Simon Leis* for appellee. Reported below: 133 Ohio St. 440; 14 N. E. 2d 354.

No. 179. *DILLARD v. PIONEER TITLE INSURANCE & TRUST Co. ET AL.* Appeal from the District Court of the United States for the Southern District of California. Decided October 10, 1938. *Per Curiam*: The motion of the appellees to dismiss the appeal herein is granted, and

*For decisions on applications for certiorari, see *post*, pp. 579, 595, for rehearing, *post*, p. 666.

the appeal is dismissed for the want of jurisdiction. Section 238, Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938); § 266, Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938); *Stratton v. St. Louis S. W. Ry.*, 282 U. S. 10, 15-16; *U. S. Naturopathic Assn. v. Chiropractic League*, 296 U. S. 539, 540. *Mr. Calvin S. Mauk* for appellant. *Mr. Ben Harrison* for appellees.

No. 181. SOVEREIGN CAMP OF THE WOODMEN OF THE WORLD *v.* CASADOS ET AL. Appeal from the District Court of the United States for the District of New Mexico. Decided October 10, 1938. *Per Curiam*: The decree is affirmed. *Brown-Forman Co. v. Kentucky*, 217 U. S. 563, 572, 573; *Northwestern Life Ins. Co. v. Wisconsin*, 247 U. S. 132, 140-141; *Tax Commissioners v. Jackson*, 283 U. S. 527, 537; *Lawrence v. State Tax Comm'n*, 286 U. S. 276, 284-285. *Messrs. Rainey T. Wells and J. O. Seth* for appellant. No appearance for appellees. Reported below: 21 F. Supp. 989.

No. 214. PUBLIC SERVICE CO. ET AL. *v.* LEBANON. Appeal from the Supreme Court of Indiana. Decided October 10, 1938. *Per Curiam*: The appeal herein is dismissed for the want of a final judgment. *Grays Harbor Co. v. Coats-Fordney Co.*, 243 U. S. 251, 255, 257; *Washington ex rel. McPherson Bros. Co. v. Superior Court*, 274 U. S. 726; *Ornstein v. Chesapeake & Ohio Ry. Co.*, 284 U. S. 572. *Messrs. Edmond W. Hebel, Willett H. Parr, Willett H. Parr, Jr., Ara Allen Parr, and Elza O. Rogers* for appellants. *Messrs. Frederick E. Matson and Harry T. Ice* for appellee. Reported below: 214 Ind. 295; 14 N. E. 2d 719.

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No. 238. *CRESCENT CREAMERY, INC., ET AL. v. MILK CONTROL BOARD ET AL.* Appeal from the Supreme Court of Indiana. Decided October 10, 1938. *Per Curiam*: The appeal herein is dismissed as it does not appear from the record that there is a final judgment. *J. Bacon & Sons v. Martin, Commissioner of Revenue*, 302 U. S. 642. *Mr. U. S. Lesh* for appellants. *Mr. Joseph W. Hutchinson* for appellees. Reported below: 214 Ind. 240; 14 N. E. 2d 588; 15 N. E. 2d 80.

No. 243. *CAMPBELL ET AL. v. ALDRICH ET AL.* Appeal from the Supreme Court of Oregon. Decided October 10, 1938. *Per Curiam*: The motion of the appellees to dismiss the appeal herein is granted, and the appeal is dismissed for the want of a substantial federal question. *Phelps v. Board of Education*, 300 U. S. 319; *Dodge v. Board of Education*, 302 U. S. 74; *Groves v. Board of Education*, 303 U. S. 622. *Mr. Alfred E. Clark* for appellants. *Mr. W. Lair Thompson* for appellees. Reported below: 159 Ore. 208; 79 P. 2d 257.

No. 264. *GARDNER v. MASSACHUSETTS*;

No. 265. *LORD-HEINSTEIN v. SAME*;

No. 266. *RAND v. SAME*; and

No. 267. *FERRIS v. SAME.* Appeals from the Superior Court, County of Essex, Massachusetts. Decided October 10, 1938. *Per Curiam*: The appeals herein are dismissed for the want of a substantial federal question. *Powell v. Pennsylvania*, 127 U. S. 678, 685; *Jacobson v. Massachusetts*, 197 U. S. 11, 26-27; *Graves v. Minnesota*, 272 U. S. 425, 428; *Lambert v. Yellowley*, 272 U. S. 581, 596. *Messrs. Robert G. Dodge and Harold S. Davis* for appellants. No appearance for appellee. Reported below: 15 N. E. 2d 222.

No. 291. *WALDING, KINNAN & MARVIN Co. v. DEPARTMENT OF LIQUOR CONTROL ET AL.* Appeal from the District Court of the United States for the Southern District of Ohio. Decided October 10, 1938. *Per Curiam*: The decree is affirmed. *Mugler v. Kansas*, 123 U. S. 623; *Crowley v. Christensen*, 137 U. S. 86, 91; *Vance v. W. A. Vandercook Co.*, 170 U. S. 438, 444; *Crane v. Campbell*, 245 U. S. 304, 307; *Mahoney v. Joseph Triner Corp.*, 304 U. S. 401, 404. *Messrs. Robert A. Taft and Charles P. Taft* for appellant. No appearance for appellees.

No. 316. *WAESCHE, TRUSTEE, v. THURMONT BANK.* Appeal from the Circuit Court of Frederick County, Maryland. Decided October 10, 1938. *Per Curiam*: The motion of the appellee to dismiss the appeal herein is granted, and the appeal is dismissed for the reason that the judgment sought to be reviewed is based upon a non-federal ground adequate to support it. *Eustis v. Bolles*, 150 U. S. 361, 368-370; *Hale v. Lewis*, 181 U. S. 473, 479-480; *Gauss v. Detroit Trust Co.*, 297 U. S. 695. *Mr. Edward J. O'Mara* for appellant. *Mr. Randolph Barton, Jr.* for appellee. Reported below: 174 Md. 382; 198 A. 728.

No. 338. *RICHFIELD OIL CORP. v. CALIFORNIA.* Appeal from the Supreme Court of California. Decided October 10, 1938. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Packer Corporation v. Utah*, 285 U. S. 105; *State Board v. Young's Market Co.*, 299 U. S. 59, 64; *Schuylkill Trust Co. v. Pennsylvania*, 302 U. S. 506, 514. *Mr. Homer D. Crotty* for appellant. No appearance for appellee. Reported below: 11 Cal. 2d 296; 79 P. 2d 386.

No. —. *SCOTT v. O'BANNON ET AL.* October 10, 1938. Application denied.

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No. —. VANN, RECEIVER, *v.* ALMOURS SECURITIES, INC., ET AL. October 10, 1938. Application denied. Reported below: 96 F. 2d 214.

No. —, original. *EX PARTE* LLOYD RUBIN. October 10, 1938. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE* FRANCIS SCALESE. October 10, 1938. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE* HOWARD LEE. October 10, 1938. Motion for leave to file a petition for writ of habeas corpus denied without prejudice to application to the appropriate court at the appropriate time.

No. —, original. *EX PARTE* MIKE HOLCHAK. October 10, 1938. A rule is ordered to issue, returnable within thirty days from this date, requiring the respondent to show cause why leave to file the petition for a writ of habeas corpus should not be granted.

No. —, original. *EX PARTE* CHARLIE JOHNSON. October 10, 1938. Motion for leave to file a petition for writ of habeas corpus denied.

No. 8, original. *NEBRASKA v. WYOMING ET AL.* October 10, 1938. The petition of intervention of the United States and the answers of the several States are received and ordered filed.

No. 13, original. *CALIFORNIA v. LATIMER ET AL.* October 10, 1938. Motion to dismiss and answer of the de-

fendants received and ordered filed and the case assigned for argument on the bill of complaint and motion to dismiss.

No. 21. NEBLETT ET AL. *v.* CARPENTER, INSURANCE COMMISSIONER, ET AL. October 10, 1938. On consideration of the suggestion of a diminution of the record and motion for a writ of certiorari in that relation, the motion for a writ of certiorari is denied. See *ante*, p. 297.

No. 301. O'BRIEN *v.* UNITED STATES; and

No. 324. BROWN *v.* SAME. October 10, 1938. On petitions for writs of certiorari to the Court of Appeals for the District of Columbia. Motions for leave to proceed further *in forma pauperis* denied for the reason that the applications for writs of certiorari were not made within the time provided by law, Rule XI, Rules of Practice and Procedure in Criminal Cases (292 U. S. 665). *Mr. James J. Laughlin* for petitioners. No appearance for the United States. Reported below: 99 F. 2d 131, 368.

No. 277. LOOMIS ET AL. *v.* FIRST FEDERAL SAVINGS & LOAN ASSN. October 10, 1938. In view of the Act of August 24, 1937 (50 Stat. 751), the Court hereby certifies to the Attorney General of the United States that the constitutionality of § 5 of the Home Owners' Loan Act of 1933 (48 Stat. 132), as amended by the Act of April 27, 1934 (48 Stat. 645), and by the Act of May 28, 1935 (49 Stat. 297), is drawn in question in this cause.

No. 221. UNITED STATES ET AL. *v.* MORGAN ET AL. Appeal from the District Court of the United States for the Western District of Missouri. October 10, 1938. The application of the appellants for a stay and supersedeas

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is granted and it is ordered that the enforcement, operation, and execution of the order of June 18, 1938, appealed from, be, and the same is hereby, stayed and superseded pending determination of the cause by this Court. *Solicitor General Jackson, Assistant Attorney General Arnold, and Messrs. Warner W. Gardner and Wendell Berge* for the appellants. *Messrs. Frederick H. Wood, John B. Gage, and Thomas T. Cooke* for appellees. Reported below: 24 F. Supp. 214.

No. 158. *PACIFIC EMPLOYERS INS. CO. v. INDUSTRIAL ACCIDENT COMM'N ET AL.* Appeal from the Supreme Court of California. Decided October 10, 1938. The appeal herein is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is granted. *Messrs. George C. Faulkner and W. N. Mullen* for appellant. *Mr. Everett A. Corten* for appellees. Reported below: 10 Cal. App. 2d 567; 75 P. 2d 1058.

No. 276. *LANDIS ET AL. v. BUCK ET AL.* Appeal from the District Court of the United States for the Northern District of Florida. October 10, 1938. Motion of the appellant State's Attorneys to vacate the decree and direct dismissal of the bill of complaint denied. Motion of the appellees to substitute granted and George Couper Gibbs, individually and as Attorney General of Florida, is substituted as a party appellant in the place and stead of Cary D. Landis, deceased. *Messrs. George Couper Gibbs, Andrew W. Bennett, and Lucien H. Boggs* for appellants. *Messrs. Thomas G. Haight, Frank J. Wideman, Louis D. Frohlich, Herman Finkelstein, and Manley P. Caldwell* for appellees.

No. 277. *LOOMIS ET AL. v. FIRST FEDERAL SAVINGS & LOAN ASSN.* On petition for writ of certiorari to the Circuit Court of Appeals for the Seventh Circuit. October 10, 1938. On consideration of the stipulation of the parties Frank H. Bixby, a member of the Banking Commission of Wisconsin, is substituted as a party petitioner in the place and stead of S. N. Schafer, resigned. The petition for writ of certiorari is granted. *Mr. Joseph P. Brazy* for petitioners. *Messrs. William Ryan and Horace Russell* for respondent. Reported below: 97 F. 2d 831.

No. —, original, October Term, 1937. *EX PARTE FLORENCE F. GREAVES STONE.* October 10, 1938. Motion for reconsideration of the motion for leave to file petition for writ of mandamus denied.

No. 183, October Term, 1936. *HICKS v. MUTUAL LIFE INSURANCE Co.* October 10, 1938. Motion for leave to file petition for rehearing denied. 299 U. S. 563.

No. 10. *UNITED STATES v. ONE 1936 MODEL FORD V-8 DE LUXE COACH.* Certiorari, 303 U. S. 633, to the Circuit Court of Appeals for the Fourth Circuit. Argued October 12, 1938. Decided October 17, 1938. *Per Curiam:* The judgment is affirmed by an equally divided Court. MR. JUSTICE BUTLER and MR. JUSTICE STONE took no part in the consideration or decision of this case. *Mr. Gordon Dean*, with whom *Solicitor General Jackson, Assistant Attorney General McMahon*, and *Messrs. Mahlon D. Kiefer and W. Marvin Smith*, for the United States. *Messrs. Duane R. Dills and Eugene E. Heaton* for respondent. Reported below: 93 F. 2d 771.

No. 368. *LOS ANGELES ET AL. v. LOS ANGELES COUNTY FLOOD CONTROL DISTRICT ET AL.* Appeal from the Supreme Court of California. October 17, 1938. The mo-

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tion to dismiss the appeal is granted as to the City of Los Angeles, and as to it the appeal is dismissed for the want of a substantial federal question. *Pawhuska v. Pawhuska Oil & Gas Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182; *Williams v. Mayor*, 289 U. S. 36, 40; *South Bend v. DeHaven*, 302 U. S. 644. As to the remaining appellant, further consideration of the question of the jurisdiction of this Court and of the motion to dismiss or affirm is postponed to the merits. *Messrs. Ray L. Chesebro, Frederick von Schrader, William H. Neal, and Bourke Jones* for appellants. *Messrs. W. B. McKesson and U. T. Clotfelter* for appellees. Reported below: 11 Cal. 2d 479; 80 P. 2d 479.

No. —, original. *EX PARTE ANDREW G. TURCKE*. October 17, 1938. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE DAISY C. TEGTMEYER*. October 17, 1938. Motion for leave to file petition for writ of habeas corpus denied.

No. 1, original, October Term 1937. *GEORGIA v. TENNESSEE COPPER CO.* October 17, 1938. The rule to show cause issued against the Ducktown Chemical & Iron Co. is discharged. It is ordered that costs in this cause since April 3, 1916, be taxed against the defendant, Tennessee Copper Co.

No. 359. *BOWEN v. JOHNSTON, WARDEN*. Certiorari, *post*, p. 579, to the Circuit Court of Appeals for the Ninth Circuit. October 17, 1938. *Seth W. Richardson, Esq.*, of Washington, D. C., a member of the bar of this Court, appointed to serve as counsel for the petitioner in this case. Reported below: 97 F. 2d 860.

No. 671, October Term 1937. *SCHULTZ v. LIVE STOCK NATIONAL BANK, ADMINISTRATOR*. October 17, 1938. Motion for leave to file a third petition for rehearing denied. See 302 U. S. 766; 303 U. S. 666; 304 U. S. 590.

No. 374. *KALB v. LUCE ET AL.*; and

No. 375. *KALB ET AL. v. FEUERSTEIN ET AL.* Appeals from the Supreme Court of Wisconsin. Decided October 24, 1938. *Per Curiam*: The appeals herein are dismissed for want of final judgments. *Missouri Ry. Co. v. Olathe*, 222 U. S. 185; *O'Mara v. Crampton*, 267 U. S. 575; *Manassas Park, Inc., v. Robertson*, 274 U. S. 716; *American Bakeries Co. v. Huntsville*, 299 U. S. 514. *Mr. William Lemke* for appellants. *Mr. J. Arthur Moran* for respondents. Reported below: 228 Wis. 519, 525; 279 N. W. 685; 280 N. W. 725.

No. —, original. *EX PARTE LOUISE DEAN MOYER*. October 24, 1938. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE TAYLOR SEALS*. OCTOBER 24, 1938. Motion for leave to file petition for writ of habeas corpus denied.

No. 277. *LOOMIS ET AL. v. FIRST FEDERAL SAVINGS & LOAN ASSN.* Certiorari, *ante*, p. 564, to the Circuit Court of Appeals for the Seventh Circuit. October 24, 1938. Motion of the United States for leave to intervene granted. *Solicitor General Jackson* for the United States. Reported below: 97 F. 2d 831.

No. 240. *ANDERSON ET AL. v. NORTHERN STATES CONTRACTING CO. ET AL.*;

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No. 241. BROWN ET AL. v. SWORDS-McDOUGAL Co. ET AL.; and

No. 242. KNOX ET AL. v. MASSACHUSETTS BONDING & INSURANCE Co. Appeals from the Court of Appeals of Kentucky. Decided November 7, 1938. *Per Curiam*: The appeals herein are dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeals were allowed as petitions for writs of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. MR. JUSTICE BUTLER took no part in the consideration or decision of these cases. *Messrs. J. A. Edge, Paul B. Crome-lin, and Francis C. Brooke* for appellants. *Messrs. Richard C. Stoll, Wallace Muir, James Park, and Seth W. Richardson* for appellees in No. 240. *Mr. Rodman W. Keenon* for appellees in Nos. 241 and 242. Reported below: 271 Ky. 140; 111 S. W. 2d 610.

No. 405. CRANCER ET AL. v. UNITED STATES ET AL. Appeal from the District Court of the United States for the Eastern District of Missouri. Decided November 7, 1938. *Per Curiam*: The decree is affirmed. *Hooker v. Knapp*, 225 U. S. 302; *Standard Oil Co. v. United States*, 283 U. S. 235, 238; *Interstate Commerce Comm'n v. United States ex rel. Campbell*, 289 U. S. 385, 388; *United States v. Griffin*, 303 U. S. 226, 233, 234. *Mr. Luther Ely Smith* for appellants. *Attorney General Cummings* and *Mr. Daniel W. Knowlton* for appellees. Reported below: 23 F. Supp. 690.

No. 410. DIAMOND TANK TRANSPORT, INC., ET AL. v. UNITED STATES ET AL. Appeal from the District Court of the United States for the Western District of Washington. Decided November 7, 1938. *Per Curiam*: The

decree is affirmed. *Hooker v. Knapp*, 225 U. S. 302; *Standard Oil Co. v. United States*, 283 U. S. 235, 238; *Interstate Commerce Comm'n v. United States ex rel. Campbell*, 289 U. S. 385, 388; *United States v. Griffin*, 303 U. S. 226, 233, 234. *Messrs. Henry T. Ivers and George E. Flood* for appellants. *Mr. Edward M. Reidy* for appellees. Reported below: 23 F. Supp. 497.

No. 423. *PARKER v. GREENSBORO*. Appeal from the Supreme Court of North Carolina. Decided November 7, 1938. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Welch v. Swasey*, 214 U. S. 91, 105-106; *Cusack v. Chicago*, 242 U. S. 526, 530-531; *Euclid v. Ambler Co.*, 272 U. S. 365, 388-389; *Gorieb v. Fox*, 274 U. S. 603, 608; *West Brothers Brick Co. v. Alexandria*, 302 U. S. 658. *Mr. Aubrey L. Brooks* for appellant. No appearance for appellee. Reported below: 214 N. C. 51; 197 S. E. 706.

No. 151. *BOLLER v. KANSAS*. Appeal from the Supreme Court of Kansas. Decided November 7, 1938. *Per Curiam*: Motion to reinstate the appeal granted and the appeal is dismissed for want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Messrs. C. L. Kagey, L. M. Kagey, and Hal M. Black* for appellant. No appearance for appellee. Reported below: 147 Kan. 651; 77 P. 2d 950.

No. 409. *TWIN FALLS COUNTY v. HENDERSON*. Appeal from the Supreme Court of Idaho. Decided November 7, 1938. *Per Curiam*: The appeal herein is dis-

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missed (1) for the want of a substantial federal question, *Pawhuska v. Pawhuska Oil & Gas Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182; *Williams v. Mayor*, 289 U. S. 36, 40; *Los Angeles v. Los Angeles County Flood Control District*, ante, p. 564; (2) for the reason that the judgment sought herein to be reviewed is based upon a non-federal ground adequate to support it, *Eustis v. Bolles*, 150 U. S. 361, 366; *Hale v. Lewis*, 181 U. S. 473, 479; *Gauss v. Detroit Trust Co.*, 297 U. S. 695. *Mr. James R. Bothwell* for appellant. No appearance for appellee. Reported below: 59 Idaho 97.

No. —, original. *EX PARTE ROMAO LUKIANCGUK*. November 7, 1938. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *MASSACHUSETTS v. MISSOURI ET AL.* November 7, 1938. Rule ordered to issue requiring defendants to show cause why leave to file the bill of complaint herein should not be granted.

No. 329. *BUCK ET AL. v. GALLAGHER ET AL.* Appeal from the District Court of the United States for the Western District of Washington. November 7, 1938. Motion to dismiss the appeal granted as to Ernest N. Hutchinson, John D. Evans, and Sam M. Driver, and the appeal is dismissed as to those three appellees. In all other respects the motion is denied. *Messrs. Thomas G. Haight, Louis D. Frohlich, and Herman Finkelstein* for appellants. *Messrs. G. W. Hamilton, Attorney General of Washington, John Egan Belcher, Assistant Attorney General, Edwin C. Ewing, Ralph E. Foley, Sam M. Driver, and Alfred J. Schweppe* for appellees. Reported below: 24 F. Supp. 541.

No. 146. *PERRY v. KANSAS*. Appeal from the Supreme Court of Kansas. Decided November 14, 1938. *Per Curiam*: The motion to reinstate the appeal is granted and the appeal is dismissed for the want of a substantial federal question. *Baldwin v. Kansas*, 129 U. S. 52, 57; *Castillo v. McConnico*, 168 U. S. 674, 683; *Old Colony Trust Co. v. Omaha*, 230 U. S. 100, 116; *Herbert v. Louisiana*, 272 U. S. 316, 317. *Messrs. C. L. Kagey, L. M. Kagey, and Hal M. Black* for appellant. No appearance for appellee. Reported below: 147 Kan. 319; 76 P. 2d 818.

No. 447. *KRYDER v. INDIANA*. Appeal from the Supreme Court of Indiana. Decided November 14, 1938. *Per Curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Sugarman v. United States*, 249 U. S. 182, 184; *Zucht v. King*, 260 U. S. 174, 176; *Red "C" Oil Co. v. North Carolina*, 222 U. S. 380, 390; *Mutual Film Corp. v. Ohio Industrial Comm'n*, 236 U. S. 230, 245; *Pacific States Co. v. White*, 296 U. S. 176, 182. *Mr. Ode L. Rankin* for appellant. No appearance for appellee. Reported below: 214 Ind. 419; 15 N. E. 2d 386.

No. —, original. *EX PARTE CLARENCE M. BRUMMETT*;

No. —, original. *EX PARTE CLINT SMITH*; and

No. —, original. *EX PARTE RALPH MARK*. November 14, 1938. Motions for leave to file petitions for writs of habeas corpus denied.

No. 11, original. *TEXAS v. FLORIDA ET AL.* November 14, 1938. The report of the Special Master herein is received and ordered to be filed.

No. 442. *MACKESY ET AL. v. MAINE*. Appeal from the Superior Court of Maine. Decided November 21, 1938.

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Per Curiam: The appeal herein is dismissed for the want of a properly presented substantial federal question. (1) *Harding v. Illinois*, 196 U. S. 78, 86, 87; *Capital City Dairy Co. v. Ohio*, 183 U. S. 238, 248; (2) *Nash v. United States*, 229 U. S. 373, 377; *Whitney v. California*, 274 U. S. 357, 368, 369; *Carter v. Texas*, *ante*, p. 557. Mr. Albert Raymond Rogers for appellants. Mr. Frank T. Powers entered an appearance for appellee. Reported below: 135 Me. 516; 200 A. 511.

No. —, original. *Ex PARTE* W. A. DENSON. November 21, 1938. Motion for leave to file petition for writ of mandamus denied. MR. JUSTICE BLACK took no part in the consideration and decision of this application.

No. 387. *CAROLINE C. SPALDING v. UNITED STATES*; and

No. 388. *SILBY M. SPALDING v. SAME*. November 21, 1938. Motions to recall orders (*post*, p. 644) denying petitions for writs of certiorari denied.

No. 104. *MONTANA EX REL. BOARD OF COUNTY COMMISSIONERS v. BRUCE, COUNTY ASSESSOR, ET AL.* November 21, 1938. Leave granted the United States to appear and present oral argument as *amicus curiae* on motion of *Solicitor General Jackson* in that behalf.

No. —. *Ex PARTE* CENTURY INDEMNITY CO. November 21, 1938. Returns of Honorable Curtis D. Wilbur and Honorable William Denman to the rule to show cause presented.

No. —, original. *IN THE MATTER OF THE PETITION OF COMMITTEE FOR INDUSTRIAL ORGANIZATION, AMERICAN CIVIL LIBERTIES UNION, ET AL., FOR A WRIT OF MANDAMUS*

AND/OR PROHIBITION, *v.* HON. J. WARREN DAVIS, HON. JOSEPH BUFFINGTON, HON. J. WHITAKER THOMPSON, HON. ALBERT BRANSON MARIS, AND HON. JOHN BIGGS, JR., UNITED STATES CIRCUIT JUDGES OF THE THIRD JUDICIAL CIRCUIT; and

No. —. COMMITTEE FOR INDUSTRIAL ORGANIZATION, AMERICAN CIVIL LIBERTIES UNION, ET AL. *v.* HAGUE ET AL. November 21, 1938. Motion for leave to file petition for a writ of mandamus and/or prohibition, for a rule to show cause why a writ of certiorari should not issue, and for interim stay, denied without prejudice to a petition for writ of certiorari in accordance with the Rules of this Court.

No. 463. BERKOWITZ *v.* ILLINOIS. Appeal from the Supreme Court of Illinois. Decided December 5, 1938. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted and the appeal is dismissed for the want of a properly presented federal question. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). *Farney v. Towle*, 1 Black 350; *Capital City Dairy Co. v. Ohio*, 183 U. S. 238, 248; *Harding v. Illinois*, 196 U. S. 78, 86, 88; *Mackesy v. Maine*, ante, p. 570. *Mr. Wm. Scott Stewart* for appellant. *Mr. Otto Kerner*, Attorney General of Illinois, for appellee. Reported below: 369 Ill. 197; 15 N. E. 2d 699.

No. 475. WATCH TOWER BIBLE AND TRACT SOCIETY ET AL. *v.* BRISTOL ET AL. Appeal from the District Court of the United States for the District of Connecticut. Decided December 5, 1938. *Per Curiam*: The decree is affirmed. *In re Sawyer*, 124 U. S. 200, 210, 211; *Fenner v. Boykin*, 271 U. S. 240. *Mr. O. R. Moyle* for appellants. No appearance for appellees. Reported below: 24 F. Supp. 57.

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No. —, original. *EX PARTE TAYLOR SEALS*;
No. —, original. *EX PARTE T. J. AUDETTE*;
No. —, original. *EX PARTE JOHN KONIK*;
No. —, original. *EX PARTE JULES A. NEWMAN*; and
No. —, original. *EX PARTE THOMAS J. MOONEY*. December 5, 1938. Motions for leave to file petitions for writs of habeas corpus denied.

No. —, original. *EX PARTE WM. P. DEPPE*. December 5, 1938. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE THOMAS J. MOONEY*. December 12, 1938. Motion for award of writ of habeas corpus denied.

No. 3. *SCHRIBER-SCHROTH Co. v. CLEVELAND TRUST Co. ET AL.*;

No. 4. *ABERDEEN MOTOR SUPPLY Co. v. SAME*; and

No. 5. *F. E. ROWE SALES Co. v. SAME*. December 12, 1938. Ordered that in each of these cases the following direction be added to the judgment:

"On the remand the Court of Appeals will be free to consider whether the amendments to the Gulick application rendered void the patent issued upon it, and to consider all questions affecting the validity and infringement of the claims in suit of the Gulick and Maynard patents, but without including web flexibility or laterally flexible webs as an element in the combinations patented by them."

Ordered that the second sentence on page 1 of the opinion of this Court in this cause be amended to read:

"Respondent, the Cleveland Trust Company, is the assignee in trust of some eighty patents relating to pistons

of the type employed in internal combustion engines for automobiles, under a pooling agreement to which an automobile manufacturer and a number of manufacturers of pistons are parties.”

And that the last sentence in the first full paragraph of page 4 of the opinion be amended to read:

“Reference to a combination including, with other elements, web connections, ‘whereby said piston skirt is rendered yieldable during operation in response to cylinder wall pressure,’ appears in Claim 18.”

It is further ordered that respondent’s motion to modify the judgments and the opinion be in all other respects denied, and that the petition for rehearing be denied.

Reported as amended, *ante*, p. 47.

No. 212. SOUTHERN PACIFIC CO. *v.* CORBETT ET AL. December 12, 1938. Andrew J. Gallagher, a member of the State Board of Equalization of California substituted as a party appellee in the place and stead of John C. Corbett, deceased, on motion of *Mr. Harry H. McElroy* in that behalf.

No. 213. PACIFIC TELEPHONE & TELEGRAPH CO. *v.* CORBETT ET AL. December 12, 1938. Andrew J. Gallagher, a member of the State Board of Equalization of California, substituted as a party appellee in the place and stead of John C. Corbett, deceased, on motion of *Mr. Francis N. Marshall* in that behalf.

No. 302. FELT & TARRANT MFG. CO. *v.* CORBETT ET AL. December 13, 1938. Andrew J. Gallagher, a member of the State Board of Equalization of California, substituted as a party appellee in the place and stead of John C.

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Corbett, deceased, on motion of *Mr. A. Calder Mackay* in that behalf.

NO. 490. *GROSS ET AL. v. TITLE INSURANCE & TRUST CO. ET AL.* Appeal from the District Court of the United States for the Southern District of California. Decided December 19, 1938. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. Section 238, Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938); § 266, Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938); *Stratton v. St. Louis S. W. Ry.*, 282 U. S. 10, 15-16; *U. S. Naturopathic Assn. v. Chiropractic League*, 296 U. S. 539. *Messrs. Henry Gross, pro se*, and *Calvin S. Mauk* for appellants. *Mr. Arch H. Vernon* for Title Guarantee & Trust Co. et al., and *Mr. U. S. Webb*, Attorney General, for State of California, appellees.

NO. —. *ARROW DISTILLERIES, INC. v. ALEXANDER, ADMINISTRATOR OF THE FEDERAL ALCOHOL ADMINISTRATION.* December 19, 1938. Petition for injunction denied.

NO. 528. *UTAH FUEL CO. ET AL. v. NATIONAL BITUMINOUS COAL COMM'N ET AL.* December 19, 1938. Petition for writ of certiorari to the Court of Appeals for the District of Columbia granted. The motion for an injunction is granted, and it is ordered that the respondents be, and they are hereby, enjoined from carrying out the provisions of the order of August 31, 1938, of the National Bituminous Coal Commission, described more fully in the petition for writ of certiorari, and from introducing in any hearing before said Commission and from making available for inspection to interested parties, or others, the individual verified cost and price realization reports of petitioners, pending final disposition of the cause by

the Court. *Messrs. J. V. Norman and Robert E. Quirk* for petitioners. *Solicitor General Jackson, Assistant Attorney General Arnold, and Mr. Robert L. Stern* for respondents. Reported below: 101 F. 2d 426.

No. 11, original, October Term, 1934. *NEW JERSEY v. DELAWARE*. December 19, 1938. Motion for leave to file a second petition for rehearing denied. 304 U. S. 590.

No. 848, October Term, 1937. *GORNY ET AL. v. TRUSTEES OF MILWAUKEE COUNTY ORPHANS BOARD*. December 19, 1938. Motion for leave to file petition for rehearing denied. 304 U. S. 559.

No. 507. *CONNOR v. RIVERS, GOVERNOR*. Appeal from the District Court of the United States for the Northern District of Georgia. Decided January 3, 1939. *Per Curiam*: The motion of the appellees to affirm is granted and the decree is affirmed. *Healy v. Ratta*, 292 U. S. 263; *McNutt v. General Motors Acceptance Corp.*, 298 U. S. 178. *Mr. Albert H. Fry* for appellant. *Mr. M. J. Yeomans*, Attorney General of Georgia, for appellee.

No. 522. *WHITMER v. ILLINOIS*. Appeal from the Supreme Court of Illinois. Decided January 3, 1939. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted and the appeal is dismissed (1) for the want of jurisdiction, § 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937); and (2) for want of a properly presented federal question. *Godchaux Co. v. Estopinal*, 251 U. S. 179; *Rooker v. Fidelity Trust Co.*, 261 U. S. 114, 117; *Herndon v. Georgia*, 295 U. S. 441, 443. *Mr. Wm. Scott Stewart* for appellant. *Mr. Otto Kerner*, Attorney General of Illinois, for appellee. Reported below: 369 Ill. 317; 16 N. E. 2d 757.

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No. —, original. *EX PARTE HARMON M. WALEY*. January 3, 1939. Motion for leave to file petition for writ of mandamus denied.

No. —, original. *EX PARTE HARRY ALLEN*. January 3, 1939. Motion for leave to file petition for writ of habeas corpus denied.

No. —. *EX PARTE SOPHY CALLAHAN*; and

No. —. *EX PARTE ROBERT GOLDSTEIN*. January 3, 1939. Applications denied.

No. —. *WASHBURN v. MICHIGAN*. January 3, 1939. Petition for appeal, referred by the CHIEF JUSTICE to the Court, denied. See 285 Mich. 119; 280 N. W. 132.

No. 429. *PREBYL v. PRUDENTIAL INSURANCE CO.* January 3, 1939. Motion for written opinion denied.

No. 552. *ARROW DISTILLERIES, INC. v. ALEXANDER, ADMINISTRATOR OF THE FEDERAL ALCOHOL ADMINISTRATION*. January 3, 1939. Application for rehearing of the petition for injunction denied. *Mr. Horace J. Donnelly, Jr.* for appellant. *Solicitor General Jackson* for appellee. Reported below: 24 F. Supp. 880.

No. 104. *MONTANA EX REL. BOARD OF COUNTY COMMISSIONERS v. BRUCE, COUNTY ASSESSOR, ET AL.* Certiorari, *post*, p. 581, to the Supreme Court of Montana. Argued December 6, 7, 1938. Decided January 9, 1939. *Per Curiam*: The judgment of the Supreme Court of Montana is affirmed by an equally divided Court. *Messrs. Edwin S. Booth, Jr. and Edwin S. Booth, Sr.* for petitioner. *Messrs. John M. Kline and Enor K. Matson*, with

whom *Messrs. Harrison J. Freebourn*, Attorney General of Montana, *Thomas Dignan*, *E. G. Toomey*, and *R. S. McKellar* were on the brief, for respondents. *Mr. Warner W. Gardner*, with whom *Solicitor General Jackson* and *Mr. Oscar Provost* were on the brief, for the United States, as *amicus curiae*, by special leave of Court. Reported below: 106 Mont. 322; 77 P. 2d 403.

No. 325. PALMER ET AL., TRUSTEES, *v.* PALMER ET AL., TRUSTEES. On petition for writ of certiorari to the Circuit Court of Appeals for the Second Circuit. Decided January 9, 1939. *Per Curiam*: The petition for writ of certiorari in this case is granted, limited to the first question presented by the petition. The decree of the Circuit Court Appeals is reversed in that particular and the cause is remanded to the District Court for further proceedings in conformity with the opinion of this Court in case No. 63, *Connecticut Railway & Lighting Co. v. Palmer*, ante, p. 493. MR. JUSTICE BRANDEIS took no part in the consideration and decision of this case. *Messrs. Robert G. Dodge* and *Talcott M. Banks, Jr.* for petitioners. *Messrs. James Garfield* and *Hermon J. Wells* for respondents. Reported below: 98 F. 2d 670.

No. —. BUNDY *v.* UNITED STATES. January 9, 1939. Application denied.

No. 249. GOODMAN *v.* UNITED STATES. Certiorari, post, p. 587, to the Circuit Court of Appeals for the Third Circuit. Argued January 13, 1939. Decided January 16, 1939. *Per Curiam*: As it appears after hearing argument and upon examination of the record that the entire evidence is not contained in the bill of exceptions, the writ of certiorari is dismissed. *Mr. Patrick J. Friel* for petitioner. *Mr. B. D. Oliensis* was on a brief for petitioner.

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Mr. Welly K. Hopkins, with whom *Solicitor General Jackson*, *Assistant Attorney General McMahon*, and *Mr. William W. Barron* were on the brief, for the United States. Reported below: 97 F. 2d 197.

No. —, original. *EX PARTE ALBERT BLEECKER*. January 16, 1939. Motion for leave to file petition for writ of habeas corpus denied.

No. —, original. *EX PARTE ALBERT LEIGHTON*. January 16, 1939. Motion for leave to file petition for writ of mandamus denied.

No. 277. *LOOMIS ET AL. v. FIRST FEDERAL SAVINGS & LOAN ASSN.* January 16, 1939. The motion to substitute is granted and John E. Martin, present Attorney General of Wisconsin, is substituted as a party petitioner in the place and stead of Orland S. Loomis, former Attorney General of Wisconsin.

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No. 359. *BOWEN v. JOHNSTON, WARDEN*. On petition for writ of certiorari to the Circuit Court of Appeals for the Ninth Circuit. October 10, 1938. Motion for leave to proceed *in forma pauperis* granted and petition for writ of certiorari granted, limited to the question of the jurisdiction of the District Court on habeas corpus. *Hugh Allen Bowen, pro se*. No appearance for the United States. Reported below: 97 F. 2d 860.

No. 158. *PACIFIC EMPLOYERS INS. CO. v. INDUSTRIAL ACCIDENT COMM'N ET AL.* See *ante*, p. 563.